

DOCKET NO.: 193065US
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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

ATTENTION: **OFFICE OF PETITIONS**

DECLARATION

ASSISTANT COMMISSIONER FOR PATENTS
WASHINGTON, D.C. 20231

SIR:

Now comes Dr. Hermann Kueppers and Dr. Kathrin Pohl who depose and state:

1. That I, Dr. Hermann Kueppers, am an employee of BASF Aktiengesellschaft in the Patents, Trademarks and Licenses department. I am the person at BASF responsible for making entry into the U.S. national stage the patent applications having BASF reference numbers O.Z. 0050/980402, O.Z. 0050/980410, O.Z. 0050/980412, O.Z. 0050/980417, O.Z. 0050/980429, O.Z. 0050/980430, O.Z. 0050/980440, O.Z. 0050/980441 and O.Z. 0050/980442, the first page of each of which is attached hereto. And I am the person responsible for filing PCT applications designating the United States for the applications having BASF reference numbers O.Z. 0050/980402 and O.Z. 0050/980410.

2. That I, Dr. Kathrin Pohl, am an employee of BASF Aktiengesellschaft in the Patents, Trademarks, and Licenses department. I am the person responsible for filing PCT applications designating the United States for the applications having BASF reference

numbers O.Z. 0050/980412, O.Z. 0050/980417, O.Z. 0050/980429, O.Z. 0050/980430, O.Z. 0050/980440, O.Z. 0050/980441 and O.Z. 0050/980442.

3. On January 20, 1999, the above mentioned application entitled Encapsulated Hydrogels having a BASF reference number of O.Z. 0050/980402, the rights to which had recently been obtained from Clariant, was filed as a PCT application designating the United States and claiming priority to the German application 198 01 933.5 filed by Dr. Klaus Mikulecky of Clariant on January 20, 1998. On July 20, 2000, the application entered the U.S. national stage, was accorded a filing date of July 20, 2000, and was given the application number 09/582,217.

On February 19, 1999, the above mentioned application entitled Postcrosslinking of Hydrogels with 2-oxazolidinones having a BASF reference number of O.Z. 0050/980410, the rights to which had recently been obtained from Clariant, was filed as a PCT application designating the United States and claiming priority to the German application 198 07 502.2 filed by Dr. Mikulecky on February 21, 1998. On August 18, 2000, the application entered the U.S. national stage, was accorded a filing date of August 18, 2000, and was given the application number 09/601,349.

When I, Hermann Kueppers, filed the PCT applications for both inventions, I relied on correct priority filing by Dr. Mikulecky and did not examine the addresses of the inventors at the time the invention was made.

4. On February 24, 1999, the above mentioned application entitled Process for Crosslinking Hydrogels with Bis- and Poly-2-oxazolidinones having a BASF reference number of O.Z. 0050/980412, the rights to which had recently been obtained from Clariant, was filed as a PCT application designating the United States and claiming priority to the German application 198 07 992.3 filed by Dr. Mikulecky on February 26, 1998. On August 28, 2000, the application entered the U.S. national stage under the direction of Dr. Kueppers,

was accorded a filing date of August 28, 2000, and was given the application number 09/622,853.

On April 22, 1999, the above mentioned application entitled Mechanically Stable Hydrogels having a BASF reference number of O.Z. 0050/980417, the rights to which had recently been obtained from Clariant, was filed as a PCT application designating the United States and claiming priority to the German application 198 18 852.8 filed by Dr. Mikulecky on April 28, 1998. On October 30, 2000, the application entered the U.S. national stage, was accorded a filing date of October 30, 2000, and was given the application number 09/674,263.

On September 28, 1999, the above mentioned application entitled Preparation of Water-Swellable Hydrophilic Polymers, the Polymers and Use Thereof having a BASF reference number of O.Z. 0050/980429, the rights to which had recently been obtained from Clariant, was filed as a PCT application designating the United States and claiming priority to the German application 198 46 413.4 filed by Dr. Mikulecky on October 08, 1998. On April 06, 2001, the application entered the U.S. national stage, was accorded a filing date of April 06, 2001, and was given the application number 09/806,942.

On October 01, 1999, the above mentioned application entitled Hydrophilic, Highly Swellable Hydrogels, Their Preparation and Use having a BASF reference number of O.Z. 0050/980430, the rights to which had recently been obtained from Clariant, was filed as a PCT application designating the United States and claiming priority to the German application 198 46 412.6 filed by Dr. Mikulecky on October 08, 1998. On April 06, 2001, the application entered the U.S. national stage, was accorded a filing date of April 06, 2001, and was given the application number 09/806,944.

On November 18, 1999, the above mentioned application entitled Postcrosslinking Hydrogels with N-acyl-2-oxazolidinones having a BASF reference number of O.Z.

0050/980440, the rights to which had recently been obtained from Clariant, was filed as a PCT application designating the United States and claiming priority to the German application 198 54 574.6 filed by Dr. Mikulecky on November 26, 1998. On May 29, 2001, the application entered the U.S. national stage, was accorded a filing date of May 29, 2001, and was given the application number 09/831,920.

On November 18, 1999, the above mentioned application entitled Hydrogels Capable of Absorbing Aqueous Fluids having a BASF reference number of O.Z. 0050/980442, the rights to which had recently been obtained from Clariant, was filed as a PCT application designating the United States and claiming priority to the German application 198 54 575.4 filed by Dr. Mikulecky on November 26, 1998. On May 25, 2001, the application entered the U.S. national stage, was accorded a filing date of May 25, 2001, and was given the application number 09/831,915.

On November 23, 1999, the above mentioned application entitled Postcrosslinking Hydrogels with 2-Oxotetrahydro-1,3-oxazines having a BASF reference number of O.Z. 0050/980441, the rights to which had recently been obtained from Clariant, was filed as a PCT application designating the United States and claiming priority to the German application 198 54 573.8 filed by Dr. Mikulecky on November 26, 1998. On May 17, 2001, the application entered the U.S. national stage, was accorded a filing date of May 17, 2001, and was given the application number 09/831,382.

When I, Kathrin Pohl, filed the PCT applications for the above mentioned inventions, I relied on correct priority filing by Dr. Mikulecky and did not examine the addresses of the inventors at the time the invention was made.

5. On October 2, 2001 I, Hermann Kueppers, was informed by BASF's US patent attorneys that a retroactive foreign filing license was required for the now abandoned US application number 09/622,648. I confirmed that two of the German inventors were residing in the United States at the time of invention, and directed our US patent attorneys to prepare the petition for such a retroactive license. In the meantime, I conducted a search of the other patent rights acquired from Clariant together with Clariant's superabsorbent polymer business, and discovered the above mentioned additional cases, having German inventors who resided in the United States at the time of invention, that require retroactive foreign filing licenses.

6. I now understand that retroactive foreign filing licenses are required for these cases, and that foreign filing licenses should have been sought prior to filing of the above applications in Germany. This mistake was made honestly, and without deceptive intent on my part.

7. Further deponent saith not.

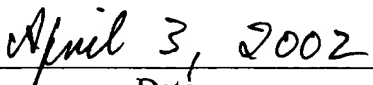
8. The undersigned petitioner declare further that all statements made herein of his/her own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of this application or any patent issuing thereon.



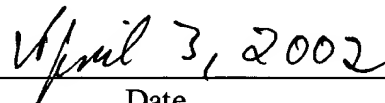
Kathrin Pohl



Hermann Kueppers



Date



Date



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